

MAR 8 - 2019

## SENATE CONCURRENT RESOLUTION

URGING THE ESTABLISHMENT OF A NATIVE HAWAIIAN INTELLECTUAL  
PROPERTY TASK FORCE TO DEVELOP A SUI GENERIS LEGAL SYSTEM  
TO RECOGNIZE AND PROTECT NATIVE HAWAIIAN CULTURAL  
INTELLECTUAL PROPERTY, TRADITIONAL CULTURAL EXPRESSIONS,  
AND GENETIC RESOURCES.

1 WHEREAS, the Native Hawaiian people's collective  
2 intellectual property rights are based upon the traditional,  
3 cultural knowledge developed over thousands of years and passed  
4 down from generation to generation; and  
5

6 WHEREAS, the value of Native Hawaiian cultural expressions  
7 and art forms are exhibited in many forms, including the use of  
8 ka 'ōlelo Hawai'i, hula, mele, mo'olelo, lei making, kapa making,  
9 kākau, weaving, feather work, carving, and wayfinding; and  
10

11 WHEREAS, the western intellectual property system was  
12 developed to protect the rights of creators and inventors  
13 against plagiarism and to reward and encourage new inventions  
14 and was not developed to protect the rights of indigenous  
15 peoples to their collective, traditional knowledge, cultural  
16 expressions, and art forms; and  
17

18 WHEREAS, existing western intellectual property laws  
19 recognizing patents, registered trademarks, designs, and  
20 copyright often facilitate the theft, misuse, and  
21 misappropriation of indigenous knowledge by researchers,  
22 authors, scientists, biotechnology corporations, universities,  
23 the fashion industry, and others; and  
24

25 WHEREAS, disputes between indigenous peoples and third-  
26 party users of indigenous knowledge resources over ownership and  
27 control have steadily increased in the last five years; and  
28

29 WHEREAS, a non-Hawaiian food chain that originated in  
30 Chicago, Aloha Poke Co., issued cease-and-desist letters



1 threatening small poke food businesses in Hawai'i and across the  
2 nation from using the words "Aloha" and "Poke", in essence  
3 claiming ownership of these cultural expressions; and  
4

5 WHEREAS, issues relating to indigenous intellectual  
6 property rights have been addressed in many international  
7 forums, including the World Intellectual Property Organization's  
8 Intergovernmental Committee on Intellectual Property and Genetic  
9 Resources, Traditional Knowledge and Folklore; the United  
10 Nations Commission on Human Rights; the United Nations  
11 Declaration on Rights of Indigenous Peoples; in relation to the  
12 environment in Agenda 21 of the Rio de Janeiro Earth Summit; and  
13 the Convention on Biological Diversity; and  
14

15 WHEREAS, other indigenous people have developed strategies  
16 and sui generis legal frameworks or systems to protect their  
17 collective intellectual property rights and knowledge, including  
18 the Indian Arts and Crafts Board federally funded through the  
19 United States Department of the Interior, the Toi Iho registered  
20 trademark for the Maori art and artists funded through a  
21 charitable trust, and the Alaska State Council on the Arts  
22 Silver Hand Program for Alaska Native artists funded through the  
23 state; and  
24

25 WHEREAS, the Association of Hawaiian Civic Clubs previously  
26 adopted Resolution Nos. 02-08, 03-13, and 17-57 to protect  
27 Native Hawaiian cultural intellectual property and resources and  
28 urge the Legislature to enact legislation, in consultation with  
29 Native Hawaiians, that recognizes and protects the Native  
30 Hawaiian people's collective intellectual property rights; and  
31

32 WHEREAS, the laws of the State of Hawai'i recognize the  
33 traditional customary rights of Native Hawaiians but do not  
34 expressly recognize and protect the collective intellectual  
35 property rights of the Native Hawaiian peoples; now, therefore,  
36

37 BE IT RESOLVED by the Senate of the Thirtieth Legislature  
38 of the State of Hawaii, Regular Session of 2019, the House of  
39 Representatives concurring, that the Department of Business,  
40 Economic Development, and Tourism, State Foundation on Culture  
41 and the Arts, Department of Commerce and Consumer Affairs,  
42 Department of Land and Natural Resources, University of Hawai'i



1 System, and any other relevant state agency is urged, in  
2 collaboration with each other and with the Association of  
3 Hawaiian Civic Clubs, Office of Hawaiian Affairs, Council for  
4 Native Hawaiian Advancement, PA'I Foundation, Hawai'i Arts  
5 Alliance, Maui Arts & Cultural Center, Nā Mea Hawai'i, Native  
6 Hawaiian Chamber of Commerce, Native Hawaiian intellectual  
7 property lawyers, and other relevant legal scholars, to  
8 establish the Native Hawaiian intellectual property task force  
9 (task force); and

10  
11 BE IT FURTHER RESOLVED that the task force is requested to  
12 develop a sui generis legal system to recognize and protect  
13 Native Hawaiian cultural intellectual property, traditional  
14 cultural expressions, and genetic resources; and

15  
16 BE IT FURTHER RESOLVED that the task force is requested to  
17 consult with indigenous communities, as appropriate; and


18  
19 BE IT FURTHER RESOLVED that the task force is requested to  
20 submit its recommendations, including any proposed legislation,  
21 to the Legislature no later than twenty days prior to the  
22 convening of the Regular Session of 2022; and


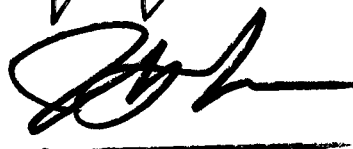

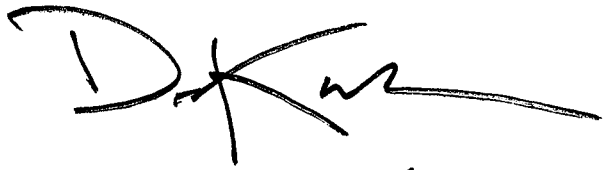
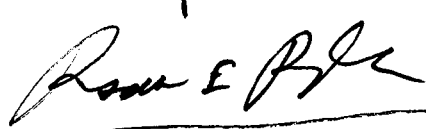
23  
24 BE IT FURTHER RESOLVED that certified copies of this  
25 Concurrent Resolution be transmitted to the members of Hawai'i's  
26 congressional delegation; Governor of the State of Hawai'i;  
27 Chairperson of the Board of Trustees of the Office of Hawaiian  
28 Affairs; Director of Business, Economic Development, and  
29 Tourism; Director of Commerce and Consumer Affairs; Chairperson  
30 of the Board of Land and Natural Resources; President of the  
31 University of Hawai'i System; Executive Director of the State  
32 Foundation on Culture and the Arts; Chair of the Senate Standing  
33 Committee on Hawaiian Affairs; Chair of the House of  
34 Representatives Standing Committee on Water, Land, and Hawaiian  
35 Affairs; Mayors of the Counties of Maui, Kaua'i, and Hawai'i and  
36 City and County of Honolulu; Executive Director of PA'I  
37 Foundation; Chief Executive Officer of the Hawai'i Arts Alliance;  
38 President and Chief Executive Officer of the Maui Arts &  
39 Cultural Center; Chief Executive Officer of the Council for  
40 Native Hawaiian Advancement; Founder of Nā Mea Hawai'i; and



1 Presidents of the Native Hawaiian Chambers of Commerce of O'ahu,  
2 Maui, Kaua'i, and Hawai'i island.  
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OFFERED BY:

  
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